

**CALIFORNIA COASTAL COMMISSION**

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## **STAFF REPORT AND RECOMMENDATION** **ON CONSISTENCY DETERMINATION**

Consistency Determination No. **CD-23-01**

Staff: JRR-SF

File Date: 3/16/2001

60th Day: 5/15/2001

75th Day: 5/30/2001

Commission Meeting: 4/12/2001

**FEDERAL AGENCY:** **U.S. Air Force**

**PROJECT**  
**LOCATION:**

Minuteman, Wall, Surf, and Ocean Beaches, Vandenberg  
Air Force Base, Santa Barbara County (Exhibit 1).

**PROJECT**  
**DESCRIPTION:**

Interim restrictions on beach access (Exhibits 2, 3, and 4)  
to protect nesting habitat for the western snowy plover.

**SUBSTANTIVE**  
**FILE DOCUMENTS:**

See page 18.

### **EXECUTIVE SUMMARY**

The Air Force submitted a consistency determination for "interim" restrictions to beach access on Vandenberg Air Force Base (Vandenberg) in order to protect the western snowy plover, a federally listed threatened species. This closure is a continuation of previous closures, which began in July 1999. The Air Force's consistency determination requests concurrence with its proposal to continue with interim beach closures for the 2001-nesting season. The Air Force proposes that the following beaches remain open for recreational use: (1) general public access to 0.5 mile of Surf Beach in the vicinity of Surf Station; (2) military personnel and limited civilian (by pass only and for fishing purposes) access to the northernmost 0.25 mile of Wall Beach; and (3) military personnel access only to Minuteman Beach. In its biological opinion, the U.S. Fish and Wildlife Service (Service) approved the interim

closures provided that the Air Force provides for enforcement, monitoring, public education, predator control, and exotic plant removal.

The Air Force has been working with the Service and the Commission staff for a number of years on the conflict caused by the plover habitat protection measures and recreational use of the beach. Both needs are critical along this stretch of coastline. Vandenberg provides very valuable nesting habitat for the plover and is vital to the recovery of the species. However, Vandenberg is located on a stretch of coast that has limited public access opportunities; between Pt. Sal and Gaviota, a 64-mile stretch of coast, there are only two publicly accessible beaches.

In reviewing similar restrictions in the past, the Commission has found these restrictions to be consistent with the public access and recreation (Sections 30210-30214) and the habitat (Section 30240) policies of the Coastal Act. Past monitoring data indicated that the snowy plover population had declined and that it was necessary to implement more restrictive measures to protect the plover. There was substantial scientific evidence, including some monitoring data, that supported the conclusion that the plover was adversely affected by recreational activities on the beach. However, these historic data do not clearly show that recreational activities were the main cause of the decline of plover populations on Vandenberg. The access and recreation restrictions are not based on the presumption that beach recreational use was the sole cause of the decline. Rather, recreation restrictions were measures that the Air Force could immediately implement and were likely to result in increasing plover populations on Vandenberg.

The beach closures that occurred in 1999 were necessary to respond to a dramatic crash of the plover population on the base. The Commission concurred with the 2000 closures because the Air Force proposed to prepare a plover management plan by the end of the summer of 2000. The Air Force has not completed its plover management plan and is once again requesting the Commission to concur with an interim closure. The vital component of the management plan that is necessary for the Commission to concur with the access restrictions is the predator management plan. Without a management plan the access restrictions alone may not provide significant protection to natural resources and the duration of the access restrictions may be extended. Therefore, the proposed access restrictions are not consistent with the access policies of the California Coastal Management Program (CCMP).

The Air Force's consistency determination provides for the option of closing all the beaches recreation use with no apparent standards to justify that full closure. The Service concluded that 1.25 miles of beach can be opened for recreational use without significantly affecting the plover. Therefore, the closure is not necessary to protect natural resources. In addition, total closure is not consistent with the Coastal Act's limitations on the requirement to maximize public access and recreation opportunities, such as protecting private property rights, public safety, and military

security. Therefore, the total closure of the affected Vandenberg beaches is not consistent with the access policies of the CCMP.

The sandy beaches on Vandenberg support nesting snowy plovers, a federally listed threatened species. In addition, the Service has designated these beaches as "Critical Habitat" for the snowy plover. Therefore, the snowy plover habitat on Vandenberg is an environmentally sensitive habitat area (ESHA). The purpose of these access restrictions are to provide better management of the sensitive resource and, as such, is an activity that is dependent on the sensitive habitat resources. Finally, since the beach restrictions will reduce human disturbances, the activity would not significantly affect the ESHA. Therefore, the project is consistent with ESHA policy of the CCMP.

### **STAFF SUMMARY AND RECOMMENDATION:**

I. **Project Description.** The Air Force proposes to extend interim restrictions on beach access (including military personnel) at beaches where snowy plovers nest on Vandenberg Air Force Base in northern Santa Barbara County. The closures will occur during the plover's nesting season, March through September. Under this interim plan, the Air Force proposes to provide open (i.e., not a linear restriction) recreational access during the nesting season to three separate areas:

- Public access to 0.5 mile of Surf Beach in the vicinity of Surf Station, using the existing access trail and a trail from Ocean Beach County Park along the back dunes. The southern boundary of the closure will be just south of the Surf Station access route. The northern boundary will be established so as to avoid the cluster of several nests that typically occurs on the northern edge of this beach segment (Exhibit 2).
- Military access and civilian fishing access (subject to Vandenberg pass) only to the northernmost 0.25 mile of Wall Beach (Exhibit 3).
- Military access only to the northernmost 0.5 mile of Minuteman Beach, on the bluff-backed beach north of the existing access trail where snowy plover nesting has not been known to occur to date (Exhibit 4).

The Air Force consistency determination included a request that the Commission consider "*continued full closure of snowy plover nesting beaches through September 30, 2001.*"

Enforcement of beach access restrictions will be accomplished using three enforcement officers assigned at open beaches from dawn to dusk every day. One person will be stationed at Surf Beach, another at Ocean Park, and a third person will patrol both Wall and Minuteman Beaches. Periodic night patrols will be

conducted. Enforcement will be conducted by foot or horseback and will be restricted to the wet sand in closed areas to the maximum extent practicable. "All terrain vehicles" will only be used for emergency purposes and will be restricted to the wet sand to the maximum extent practicable. [In addition:]

- If more than 25 violations of the closed area of Surf Beach are documented by the Air Force in any one breeding season, Surf Beach will be closed to all recreational access for the remainder of the snowy plover breeding season.
- If more than 10 violations of the closed area of Wall Beach are documented by the Air Force in any one breeding season, Wall Beach will be closed to all recreational access for the remainder of the snowy plover breeding season.
- If more than 5 violations of the closed area of Minuteman Beach are documented by the Air Force in any one breeding season, Minuteman Beach will be closed to all recreational access for the remainder of the snowy plover breeding season.

All other beach areas on Vandenberg supporting nesting snowy plovers would be closed from March 1 through September 30, 2001. In all, 11.25 miles (90 percent) of nesting habitat on Vandenberg would be protected during the nesting season.

**II. History of Plover-Related Closures.** In 1995, the Air Force proposed a one-year "linear" closure of Ocean and Wall Beaches area above +7 ft. mean lower low water (MLLW) during the plover's nesting season. The closure was accompanied by signs restricting entrance into the plover nesting area, interpretive signs explaining the status of this threatened species, and active enforcement and education by Base and Fish and Wildlife Service personnel. After the Air Force agreed to limit the closure to one year and return at a later date with an access management plan protecting the plovers, the Commission concurred and found the linear closure consistent with the public access policies of the Coastal Act. The Commission and the Air Force had hoped that a linear closure would benefit snowy plover nesting success without significantly affecting public use of the beach.

The Air Force did not formally return to the Commission the following year for an extension to these restrictions. However, the Air Force did continue to work with the Commission staff and the U.S. Fish and Wildlife Service in subsequent years to continue to implement the linear restrictions and continue to monitor impacts on both public access and plover nesting. After monitoring results indicated a significant decrease in plover population of Vandenberg, the Fish and Wildlife Service recommended an immediate emergency closure of 3 miles of publicly accessible beaches (starting just south of Surf Station and continuing 3 mi. further south) where the greatest concentrations of plover nesting occurs. The Air Force complied with this recommendation, and on September 2, 1999, the Commission's Executive Director concurred with the Air Force's negative determination (ND-87-99) for after-

the-fact beach closures for the summer 1999 snowy plover nesting, with an agreement for follow-up submittals in 2000.

In February of 2000, the Air Force submitted a consistency determination for an interim beach closures that was similar to the 1999 closure except that only a half mile of Surf Beach remained open to the public, with the northern boundary about ½ mile south of the Santa Ynez River (Exhibit 2). The Commission's concurrence with that interim closure was made in part because of the Air Force's commitment to develop and submit a Plover Management Plan by summer 2000. That plan has not been finalized.

**III. Status of Local Coastal Program.** The standard of review for federal consistency determinations is the policies of Chapter 3 of the Coastal Act, and not the Local Coastal Program (LCP) of the affected area. If the Commission certified the LCP and incorporated it into the California Coastal Management Program (CCMP), the LCP can provide guidance in applying Chapter 3 policies in light of local circumstances. If the Commission has not incorporated the LCP into the CCMP, it cannot guide the Commission's decision, but it can provide background information. The Commission has certified Santa Barbara County's LCP and incorporated it into the CCMP.

**IV. Federal Agency's Consistency Determination.** The U.S. Air Force has determined the project to be consistent to the maximum extent practicable with the California Coastal Management Program.

**V. Staff Recommendation.** The staff recommends that the Commission adopt the following motion:

**A. Motion:**

*I move that the Commission agree with consistency determination CD-23-01 that the project described therein is fully consistent, and thus is consistent to the maximum extent practicable, with the enforceable policies of the California Coastal Management Program (CCMP).*

**B. Staff Recommendation.** Staff recommends a **NO** vote on the motion. Failure to pass of this motion will result in an objection to the determination and adoption of the following resolution and findings. An affirmative vote of a majority of the Commissioners present is required to pass the motion.

**C. Resolution to Object to Consistency Determination.** The Commission hereby **objects** to the consistency determination by the U.S. Air Force, on the grounds that the project described therein is not consistent to the maximum extent practicable with the enforceable policies of the CCMP.

**VI. Consistent to the Maximum Extent Practicable.**

Section 930.32 of the federal consistency regulations provides, in part, that:

*(1) The term “consistent to the maximum extent practicable” means fully consistent with the enforceable policies of management programs unless full consistency is prohibited by existing law applicable to the Federal agency.*

The Commission recognizes that the standard for approval of Federal projects is that the activity must be “consistent to the maximum extent practicable” (Coastal Zone Management Act Section 307(c)(1)). This standard allows a federal activity that is not fully consistent with the CCMP to proceed, if compliance with the CCMP is “prohibited [by] existing Federal law applicable to the Federal agency’s operations” (15 C.F.R. § 930.32). The Air Force has not demonstrated that this project is consistent to the maximum extent practicable with the CCMP by citing and “statutory provision, legislative history, or other legal authority which limits [its] ... discretion to comply with the provisions of the” CCMP (15 C.F.R. § 930.32). Therefore, there is no basis for the Commission to conclude that although the proposed project is inconsistent with the CCMP, it is consistent to maximum extent practicable.

**VII. Project modifications.**

Section 930.43 of the federal consistency regulations (15 CFR § 930.43) requires that, if the Commission’s objection is based on a finding that the proposed activity is inconsistent with the CCMP, the Commission must identify measures, if they exist, that would bring the project into conformance with the CCMP. That section states that:

*The State agency should also describe alternative measures (if they exist) which, if adopted by the Federal agency, would allow the activity to proceed in a manner consistent to the maximum extent practicable with the enforceable policies of the management program. Failure to describe alternatives does not affect the validity of the State agency’s objection.*

As described in the findings below, the proposed project is inconsistent with the Access Policies of the CCMP. Pursuant to this federal regulation, the Commission is responsible for identifying measures, if they exist, that would bring the project into compliance with the CCMP. The measures are as follows:

1. Develop and submit a plover management plan that provides for, in addition to any access restrictions that are determined to be appropriate, public education, enforcement of access restrictions, predator management, and habitat restoration.

2. Modify the proposed consistency determination to eliminate the alternative proposal to completely close all beaches to recreational uses during the nesting season.

## **VIII. Findings and Declarations**

The Commission finds and declares as follows:

**A. Regulatory Background.** The U.S. Fish and Wildlife Service listed the Pacific Coast population of the Western snowy plover as “threatened” in March 1993 under the Endangered Species Act (ESA) of 1973, as amended. The ESA mandates Vandenberg Air Force Base to protect snowy plovers within its borders and enforce the provisions of the ESA, which prohibit accidental and intentional take. “Take,” as defined under the Section 3 of the Endangered Species Act, means to *“harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect this species, or to attempt to engage in any such conduct.”* Under the ESA, “species” includes snowy plover eggs as well as adults and chicks. The ESA also places a proactive requirement on all federal agencies to participate in the recovery of the species.

During the 1993 nesting season, the U.S. Fish and Wildlife Service reported to Vandenberg that normal public activity previously permitted within snowy plover nesting habitat on Ocean Beach resulted in both direct mortality to snowy plover eggs and harassment of adults and chicks. Overall, observed fledging success was far lower at Ocean Beach, which is open to the public, than at other Vandenberg beaches that are not open to the public. Snowy plovers nest in sandy areas above the high tide line along the entire length of Ocean Beach. On December 7, 1999, the Fish and Wildlife Service adopted formal “critical habitat” designations for the plover, including all beaches where the plover nests on Vandenberg, including publicly-accessible Surf and Wall beaches.

The ESA requires federal agencies to consult with the U.S. Fish and Wildlife Service regarding actions that may affect listed species. Such actions include management of recreational beach use that results in a take of Western snowy plovers or otherwise affects this listed species. The ESA also directs Federal agencies to use their authorities to further the purposes of the Act, which include conservation and recovery of listed species.

In October of last year, the Air Force published an environmental assessment for beach and snowy management on Vandenberg. The Air Force submitted a biological assessment on that plan to the Service in compliance with Section 7 of the ESA. In January 2001, the Service produced a draft biological opinion for the Air Force’s management plan, which concluded that the plan would jeopardize the continued existence of the snowy plover. In response to that plan, the Air Force proposed to extend the previously approved interim closure through the 2001-

nesting season. The Air Force has also agreed to increase its enforcement of the beach closures, prepare a predator management plan, beach restoration plan, and provide for public education.

On March 7, 2001, the Air Force submitted a negative determination to the Commission for complete closure of all beaches on Vandenberg for the period between March 1, 2001, and the April 13, 2001. That negative determination was necessary because the Service had not yet issued its biological opinion for beach restrictions on Vandenberg, and thus the Air Force did not have authority to allow any take of the plover from recreational activities on the beach. The Service issued its biological opinion on March 9, 2001 (Exhibit 5). That opinion requires the Air Force to increase its enforcement of the beach regulations. Until the Air Force hires and trains its enforcement personnel, it cannot reopen the limited portions of the closed beaches. The consistency determination before the Commission includes a request to extend the total closures until mid-April and re-apply the previously approved interim restrictions.

**B. Public Access and Recreation.** Section 30210 of the Coastal Act provides for maximizing public access and recreation opportunities, providing that such activities take into account natural resource protection needs. Section 30213 provides for protection of lower cost visitor and recreational facilities. Section 30214 elaborates on access management considerations, providing that:

*(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:*

...

*(2) The capacity of the site to sustain use and at what level of intensity.*

*(3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area....*

The access policies of the Coastal Act clearly provide for restricting public access and recreational opportunities in order to protect natural resource areas, such as nesting habitat for a threatened species. However, in order to understand the significance of the impact of the proposed restrictions, the Commission must analyze these access restrictions in the context of the existing access resources in the area. Access to the northern Santa Barbara County coast is more limited than almost any other portion of the California coast. Between Gaviota and Point Sal is a 64-mile stretch of coastline that is only fully open to the public at two locations: Surf Beach



and Jalama Beach. There are some other limited access opportunities on Vandenberg, which require permits from the Air Force Base and are limited to fishing. All of these beaches are subject to temporary closures during missile launches at Vandenberg.

Three large landowners, the Air Force, Bixby Ranch, and Hollister Ranch, own most of the coast in this area. The Commission has a long and extensive history of concern over the limitations on public access to this area of the coast, including numerous attempts to implement the public access provisions of the Coastal Act at Hollister and Bixby Ranches through the permit and LCP processes. Although the Santa Barbara County LCP contains public access requirements that would be triggered by development at Bixby Ranch, that development has not occurred and that area remains inaccessible. In addition, the Commission concurred with a consistency determination (CD-21-82) by the Air Force for the construction of a Space Shuttle launch facility, in part, because it included additional public access at Ocean Beach and north of Jalama Beach. In another consistency determination (CD-5-89), the Commission staff recommended objection (the Air Force withdrew the project at the hearing) to a proposal to construct a new launch facility because of impacts, including closures, to the use of Jalama Beach. Finally, the Commission objected to a consistency determination (CD-65-90) for the Air Force's proposed acquisition of development rights on Bixby Ranch, because it affected the local government's ability to implement the access provisions of its LCP. These actions demonstrate that protecting existing and providing new access opportunities in this area of the coast is a high priority for the Commission.

At the same time, just as Vandenberg provides critically needed public access opportunities in an area where access is limited, it is equally, if not more, critical to the survival of the snowy plover. As discussed in the ESHA section below, habitat for the snowy plover is an ESHA under the Coastal Act, and Vandenberg provides important habitat that is necessary for the survival and recovery of the bird. Because of the historic and geographic limitations on public access to the shoreline, snowy plover issues on publicly open beaches on Vandenberg are complex and difficult issues for the Commission. The Commission is forced to make a difficult choice between protecting snowy plover habitat that the Service and other biologists (including Gary Page of the Point Reyes Bird Observatory) have identified as critical to the survival and recovery of the species. On the other hand, the current limitations on public access along this portion of the coast make it difficult for the Commission to authorize any activities that further restrict public access.

Adding to the complexity of this issue is the lack of clear evidence that beach recreation activities are adversely affecting the snowy plover population. There is a significant amount of research that indicates that human activities on the beach

affect snowy plovers. In its biological opinion, the Service describes this impact as follows:

*The Pacific coast population of the western snowy plover has experienced widespread loss of nesting habitat and reduced reproductive success at many nesting locations due to urban development and the encroachment of European beachgrass. Human activities such as walking, jogging, unleashed pets, horseback riding, and off-road vehicles can destroy the western snowy plover's cryptic nests and chicks. Indirect impacts from these activities include disturbance of western snowy plover adults to the extent that they abandon nests or interference with incubation to the point that eggs become buried by sand or fail to hatch because of exposure to cold or heat (Warriner et al. 1986). Western snowy plovers do not usually abandon their nests because of wind without another compounding factor such as human disturbance (Page, pers. comm.). Human activities can also interfere with foraging activities by disrupting the ability of adults and chicks to get to the wet beach to feed and return to the dunes or their nest (Burger 1993). Chicks can also become separated from their parents as a result of human disturbance of broods. Such disturbance could cause or contribute to chick mortality by interfering with essential chick-rearing behaviors or by causing intolerable stresses directly to the chicks (Cairns and McLaren 1980). For example, separation of chicks and their parent can lead to lethal exposure to wind and cold temperatures or disturbance that interferes with foraging could result in the starvation of western snowy plover chicks. In some instances, disturbance associated with these types of recreational activities is expected to temporarily flush western snowy plovers and not affect the birds in such a substantial manner. In other cases, such disturbance could interfere with the metabolism and thermoregulation of western snowy plover chicks and migrating or wintering adults such that they starve or egg production is impaired during the subsequent nesting season (Cairns 1982). The available information regarding the energetics of western snowy plovers is inadequate to assess the likelihood that such injury or mortality would result. In 1998, a pattern of increased chick loss over weekends (when increased human use of beach areas occurs) was observed by western snowy plover researchers at Point Reyes National Seashore. In response to this observation, a protocol for collecting data on chicks was standardized in 1999 and 2000. Chicks were observed on Fridays and then again on Mondays (or the day after a holiday). Chick loss over weekends was over 1.5 times the weekday loss. Data from 1999 and 2000 show almost identical trends (Page, pers. comm.).<sup>1</sup>*

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<sup>1</sup> Biological Opinion for Beach management and the Western Snowy Plover on Vandenberg Air Force Base for the 2001 Breeding Season (1-8-01-F-13).

Additionally, the monitoring reports for snowy plovers on Vandenberg have documented, since 1996 (when regular monitoring of fledging success began), that those beaches that are open to recreational use usually have lower fledging success than closed beaches. However, the data are not consistent. For example, during the 2000-nesting season, when most of the beaches were closed to recreational activities, fledging success was less than it was in previous years. Although this kind of conflicting data has been prevalent in the last six years of monitoring, one factor remains clear: the population of snowy plovers is declining. The Pacific Coast population of the western snowy plover has declined over the last few years and continues to decline. The range-wide population has decreased by 29% from (1371 to 976).<sup>2</sup> The population decline on Vandenberg has been slightly more dramatic than the range wide declines. The Vandenberg population has declined from 242 to 106 adult plovers,<sup>3</sup> a 56% decline. The Service, Air Force, and Commission are concerned that this decline may continue unless something is done to protect the birds nesting habitat. To err on the side of caution is called for in this situation. In other words, allowing beach closures would provide for additional protections for a species whose population appears to be in decline. Therefore, the Commission generally supports the proposed beach closures as cautious measure to protect the plover, in light of its threatened status and its continued population decline.

However, the proposed closures submitted by the Air Force in this consistency determination are not consistent with the access policies of the CCMP. First, the Air Force's consistency determination provides for the option of closing all the beaches recreation use with no apparent standards to justify that full closure. In its most recent biological opinion, the Service has authorized Air Force to open 1.25 miles of its beaches to recreational use, provided that the beach users do not excessively violate the beach restrictions and that nesting activities on those beaches remain relatively low. It appears that the request for complete closure is based on concerns over the ability of the Air Force to meet the enforcement requirements of the Service's biological opinion (Jim Johnston, pers. comm., March 16, 2001). Regardless of the reason, the complete closure of the beach is not necessary for the protection of the plovers, as the Service has acknowledged and the Commission agrees. In addition, total closure is not consistent with the Coastal Act's limitations on the requirement to maximize public access and recreation opportunities, such as protecting private property rights, public safety, and military security. Therefore, the Commission finds the provision for total closures of the affected Vandenberg beaches inconsistent with the access policies of the CCMP.

The second basis for finding the proposed beach recreation restrictions inconsistent with the access policies of the Coastal Act is the lack of a plover management plan

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<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

for Vandenberg. If the closures are not implemented in an overall management context, the plover population is likely to continue to decline. Members of the public have expressed concerns that public access is not the primary cause of the snowy plover population declines (Exhibits 6, 7, and 8). Rather, predation is the most significant cause of the habitat impacts. In 2000, the predation rate was even higher, with 47 percent of the nests lost to predation.<sup>4</sup> In addition, unless public education is a component of the access restrictions, it is more likely that there would continue to be conflicts between access and the plovers. Finally, plover populations and reproductive success could possibly be improved by habitat restoration, mainly removal of exotic vegetation including European beach grass and ice plant. As the Commission stated above, the plover population is declining and the Service and the Air Force must take every measure available to protect the species.

For several years, the Air Force has committed to the Commission that it would prepare a management plan for the plovers. In May 1998, the Air Force committed to prepare a management plan for the plover as part of the Commission concurrence with its consistency determination for the Evolved Expendable Launch Vehicle program, CD-049-98. In its consistency determination for the interim closures during the 2000 nesting season (CD-19-00), the Air Force stated that the closures were interim because it was preparing a management plan, which was expected to be completed by the summer of 2000. Although the Air Force circulated a draft environmental assessment for the management plan, the document is not final and has not been submitted to the Commission.

The decision to continue to implement interim restrictions without an overall management plan is likely to not adequately provide for the protection and recovery of the plover. Since recreational use of the beach does not appear to be a significant direct cause of nest losses and there are conflicting data on the impact from recreational use on fledgling success, the access restrictions alone will not allow for recovery of the species. In addition, the duration of the access restrictions is likely to be longer, if not permanent, without implementation of other measures, such as predator control. In other words, public access to shoreline is being restricted in a manner that may not significantly protect the habitat. Therefore, without predator controls the restriction is not consistent with the Coastal Act's natural resources exception to the requirement to maximize public access and recreation opportunities, and the Commission finds that the proposed restrictions are not consistent with the access policies of the CCMP.

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<sup>4</sup> Western Snowy Plovers on Vandenberg Air Force Base, 2000 Final Report, January 2, 2001

**C. Environmentally Sensitive Habitat.** Section 30240(a) of the Coastal Act provides that:

*Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.*

In evaluating the project for consistency with the Environmentally Sensitive Habitat Area (ESHA) policy of the Coastal Act, the Commission must determine if the habitat affected by the proposed activity is an ESHA. In March 1993, the U.S. Fish and Wildlife Service listed the Pacific Coast population of the Western snowy plover as a threatened species. The snowy plover is a small pale colored shorebird with dark patches on either side of the upper breast. Snowy plovers forage on invertebrates in the wet sand, surf-cast kelp within the intertidal zone, dry sandy areas above high tide, on salt pans, dredge spoil sites, and along the edges of salt marshes and salt ponds. The plover nests in loose colonies along beaches that provide on flat open areas with sandy or saline substrates. The nest areas are normally devoid of vegetation and driftwood. The plover nests on sand spits, dune-backed beaches, unvegetated beach strands, open areas around estuaries, and beaches at river mouths. In publishing the Final Rule designating the threatened status of the species, U.S. Fish and Wildlife Service describes the status of the species as follows:

*Poor reproductive success, resulting from human disturbance, predation, and inclement weather, combined with permanent or long-term loss of nesting habitat to encroachment of introduced European beach grass (*Ammophila arenaria*) and urban development has led to a decline in active nesting colonies, as well as an overall decline in the breeding and wintering population of the western snowy plover along the Pacific coast of the United States.<sup>5</sup>*

Vandenberg provides important habitat for the snowy plover. The sandy beach and lagoons within the base provide both nesting and wintering habitat. There are approximately 12.5 miles of beach used by the plover on the base and the Service has listed all of these beaches as critical habitat for the snowy plover. In its most recent biological opinion, the Service described the importance of Vandenberg to the recovery of the snowy plover as follows:

*Since the first comprehensive surveys for western snowy plovers in western North America in the late 1970s, **Vandenberg AFB has consistently held one of the largest concentrations of breeding western snowy plovers***

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<sup>5</sup> Federal Register, Vol. 58, No. 42, March 5, 1993, pp. 12864-12874.

***along the west coast of the United States (Page and Stenzel 1981, Page et al. 1991). Vandenberg AFB accounted for 242 of 1371 adult western snowy plovers on a 1991 breeding-season survey of the California coast and had the highest number of adults of any area in California in the 1991 survey (Page 2001). Although no coast-wide surveys were attempted between 1992 and 1994, Vandenberg AFB supported a mean number of 223 adult western snowy plovers during the 1994 breeding season, indicating continuing high numbers (Persons 1995). In 1995, a coalition of researchers counted western snowy plovers in mid-breeding season in California coastal areas covered on previous state-wide surveys. They tallied a total of 974 adults; the highest regional total, 213 birds, was again at Vandenberg AFB (Page 2001). ....***

***Vandenberg AFB provides one of the greatest opportunities for recovery of the western snowy plover throughout its range because it has consistently supported one of the largest concentrations of breeding individuals throughout the species' range, has the largest continuous mainland coastal habitat under Federal ownership, and is expected to be able to support 400 adult birds during the breeding season.<sup>6</sup> (Emphasis Added)***

Within the Vandenberg, Surf beach provides some of the most important nesting habitat for the plover. The snowy plover nests along the entire length (approximately 4 miles) of Surf Beach. In a 1995, environmental assessment, the Air Force described the status of the bird at Surf Beach (which is sometimes referred to as Ocean Beach, named after the County Park adjacent to the Santa Ynez River estuary) as follows:

***Vandenberg Air Force Base supports approximately 200 breeding snowy plovers (USFWS 1994). In 1993, 82 of these nested on Ocean Beach. The remainder is on beaches on the northern portion of the base which are restricted to base personnel. .... The Ocean Beach population represents 6 percent of the entire California population of the threatened coastal population of the western snowy plover.<sup>7</sup>***

In the Vandenberg snowy plover monitoring report for the 2000 nesting season, there were 71 nests identified on Surf Beach,<sup>8</sup> which represented approximately 50% of the nests on the base (Surf Beach provides approximately 33% of the nesting habitat on Vandenberg). In addition, approximately 50 chicks hatched on

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<sup>6</sup> U.S. Fish and Wildlife Service Biological Opinion, March 9, 2001

<sup>7</sup> Draft Environmental Assessment, Modification of Public Access Routes at Ocean Beach Vandenberg Air Force Base, California, March 1995.

<sup>8</sup> Western Snowy Plovers on Vandenberg Air Force Base, 2000 Final Report, January 2, 2001.

Surf Beach,<sup>9</sup> which represents over 60% of the chicks hatched on the base. In other words, a 1/3 of the nesting habitat on the base provided for over half the nests and hatchlings during the 2000 nesting season.

Clearly, Surf Beach is an important component of the nesting habitat on Vandenberg, which is one of the most important breeding and nesting habitats on the Pacific Coast. Additionally, the Service has designated the sandy beaches on the base as Critical Habitat<sup>10</sup> for the snowy plover. Thus, the Commission finds that the sandy beaches on Vandenberg that provide nesting habitat for the snowy plover are ESHAs under the Coastal Act.

As described in the access section above, the Commission is concerned that a proposal to restrict access that does not also include other necessary management efforts, especially predator control, is not consistent with the access policies of the Coastal Act. However, in evaluating consistency with the ESHA policies, the primary question, in this case, before the Commission is whether the interim restrictions are consistent with the ESHA policies of the CCMP. Section 30240 of the Coastal Act restricts the types of uses within an ESHA to activities that are dependent on the sensitive resources. In this case, the Air Force proposes to restrict beach recreation activities in order to protect the snowy plover. As described in the access section above, the Pacific Coast population of the western snowy plover has declined over the last few years and continues to decline. In response to this significantly declining population on Vandenberg, the Air Force, in coordination with the Service, proposes to implement stronger protection measures for the plovers. The primary snowy plover protection measure proposed by the Air Force at this time is restriction of beach use. In its biological opinion, the Service discusses impacts of recreational activities on the snowy plover:

*The Pacific coast population of the western snowy plover has experienced widespread loss of nesting habitat and reduced reproductive success at many nesting locations due to urban development and the encroachment of European beachgrass. Human activities such as walking, jogging, unleashed pets, horseback riding, and off-road vehicles can destroy the western snowy plover's cryptic nests and chicks. Indirect impacts from these activities include disturbance of western snowy plover adults to the extent that they abandon nests or interference with incubation to the point that eggs become buried by sand or fail to hatch because of exposure to cold or heat (Warriner et al. 1986). Western snowy plovers do not usually abandon their nests because of wind without another compounding factor such as human disturbance (Page, pers. comm.). Human activities can also interfere with*

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<sup>9</sup> Ibid.

<sup>10</sup> Federal Register Vol. 64, December 7, 1999, p. 68508

*foraging activities by disrupting the ability of adults and chicks to get to the wet beach to feed and return to the dunes or their nest (Burger 1993). Chicks can also become separated from their parents as a result of human disturbance of broods. Such disturbance could cause or contribute to chick mortality by interfering with essential chick-rearing behaviors or by causing intolerable stresses directly to the chicks (Cairns and McLaren 1980). For example, separation of chicks and their parent can lead to lethal exposure to wind and cold temperatures or disturbance that interferes with foraging could result in the starvation of western snowy plover chicks. In some instances, disturbance associated with these types of recreational activities is expected to temporarily flush western snowy plovers and not affect the birds in such a substantial manner. In other cases, such disturbance could interfere with the metabolism and thermoregulation of western snowy plover chicks and migrating or wintering adults such that they starve or egg production is impaired during the subsequent nesting season (Cairns 1982). The available information regarding the energetics of western snowy plovers is inadequate to assess the likelihood that such injury or mortality would result. In 1998, a pattern of increased chick loss over weekends (when increased human use of beach areas occurs) was observed by western snowy plover researchers at Point Reyes National Seashore. In response to this observation, a protocol for collecting data on chicks was standardized in 1999 and 2000. Chicks were observed on Fridays and then again on Mondays (or the day after a holiday). Chick loss over weekends was over 1.5 times the weekday loss. Data from 1999 and 2000 show almost identical trends (Page, pers. comm.).<sup>11</sup>*

The Service's biological opinion demonstrates that recreational activities on the beach adversely affect the snowy plovers and, based on this opinion, the Air Force determined that it is necessary to significantly reduce beach recreational activities in order to prevent continued decline of plover numbers. While the proposed project does not address all of the possible causes of the population decline, it is a reasonable management measure that is likely to improve nesting habitat on Vandenberg. As a management measure improving habitat quality, it is dependent on the resource it is intended to serve. Therefore, the Commission finds that the proposed project is dependent on the sensitive resources.

Section 30240 of the Coastal Act also requires activities within an ESHA to avoid significant disruption to the sensitive habitat. The proposed project will reduce the beach recreation activities within the ESHA. As described above, these activities can adversely affect snowy plover reproductive success. Therefore, the proposed

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<sup>11</sup> Ibid.



beach restrictions will reduce the existing disruptions to the plover, and thus, the Commission finds that the project will not significantly disrupt snowy plover habitat.

As discussed in the access section above, the community members affected by the beach restrictions argue that recreational use is not the primary cause of the decline in the plover population. The community members argue, and provide substantial evidence to support this conclusion, that predation is the main culprit. However, the question before the Commission in this part of the analysis is not whether public use is to blame for snowy plover population declines, but whether beach recreation restrictions provide additional protection for the plover. Since the population has significantly declined in recent years, it is clear that the Air Force should adopt all measures to protect the bird.

In conclusion, the sandy beaches on Vandenberg support nesting snowy plovers, a federally listed threatened species. In addition, the Service has designated these beaches as "Critical Habitat" for the snowy plover. Therefore, the snowy plover habitat on Vandenberg is an ESHA. The purpose of these access restrictions is to provide better management of the sensitive resource and, as such, is an activity that is dependent on the sensitive habitat resources. Finally, since the beach restrictions will reduce human disturbances, the activity would not significantly affect the ESHA. Therefore, the Commission finds that the project is consistent with Section 30240 of the Coastal Act.

**IX. SUBSTANTIVE FILE DOCUMENTS.**

1. Consistency Determination No. CD-67-95 (Air Force, Public access restrictions for snowy plover); Consistency Determination No. CD-19-00 (Air Force, Public access restrictions for snowy plover); Negative Determination No. ND-87-99 (Air Force, after-the-fact emergency beach closure to protect snowy plover; Negative Determination No. ND-20-00 (Air Force, "immediate" (i.e., March 1-March 15, 2000 beach closure); Negative Determination No. ND-19-01 (Air Force, Immediate closure of all sandy beaches between March 1, 2001 and April 13, 2001).
2. Designation of Critical Habitat for Pacific Coast Population of the Western snowy Plover; Federal Register Vol. 64, No 234, page 68508 et seq., December 7, 1999.
3. Final Report - Western Snowy Plover Monitoring in 1993 at Vandenberg Air Force Base, February 2, 1994.
4. Final Rule for Determination of Threatened Status for the Pacific Coast Population of the Western snowy Plover; Federal Register Vol. 58, No 42, page 12864; March 5, 1993.
5. Page, Gary W., et al., Distribution and Abundance of the Snowy Plover on its Western North American Breeding Grounds; Journal of Field Ornithology, 62(2): 245 - 255.
6. Consistency Determinations: CD-21-82 (Air Force, Space Shuttle Facility), CD-5-89 (Air Force, Titan IV at SLC-7), CD-28-90, (Air Force, Titan IV at SLC-6), CD-65-90 (Air Force, Acquisition of development rights on Bixby Ranch), and CD-12-94 Air Force experimental seasonal beach closure, Ocean Beach).
7. Draft Environmental Assessment, Modification of Public Access Routes at Ocean Beach Vandenberg Air Force Base, California, February 22, 1994.
8. Draft Environmental Assessment, Modification of Public Access Routes at Ocean Beach Vandenberg Air Force Base, California, March 1995.
9. U.S. Fish and Wildlife Service, Biological Opinion on the proposal to modify recreational beach access, Ocean Beach, Vandenberg Air Force Base, February 3, 1995.
10. Preliminary Findings, Snowy Plover Reproductive Success on Ocean Beach, Vandenberg Air Force Base, California, U.S. Air Force, prepared for the California Coastal Commission, July 1998.

11. Draft Environmental Assessment, Beach Management and the Western Snowy Plover at Vandenberg Air Force Base, October 30, 2000.
12. Western Snowy Plovers on Vandenberg Air Force Base, 2000 Final Report, January 2, 2001.
13. Biological Opinion for Beach Management and the Western Snowy Plover at Vandenberg Air Force Base for the 2001 Breeding Season (1-8-01-F-13), March 9, 2001.